

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Evans, R. et al.
Application No.: 09/522,753
Confirmation No.: 4924
Filing Date: March 10, 2000
For: SMRT CO-RECEPTORS,
TRANSCRIPTIONAL CO-REPRESSORS
THAT INTERACT WITH NUCLEAR
HORMONE
Examiner: J. Dunston
Group Art Unit: 1636

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
UNDER 37 C.F.R. §1.705**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants respectfully request reconsideration of the patent term adjustment (PTA) of 0 days as indicated on the Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) mailed on July 30, 2007. The USPTO delay should be acknowledged to be at least 826 days, for a net PTA of at least **301 days**, as determined below.

Upon review of the Patent Term Adjustment History using the Patent Application Information Retrieval (PAIR) database, the following error/omission was noted.

USPTO delay beyond the three year pendency period beginning at the filing date of a Continued Prosecution Application (CPA) has not been acknowledged in this application.

As seen in the attached Exhibit A, applicants filed a CPA in this application November 01, 2002. A properly filed CPA is a new (continuing) application and is therefore entitled to PTA. Page three of PTOL-85 recognizes this by stating that if a CPA was filed in an application, the filing date that determines the PTA is the filing date of the most recent CPA. Thus, Applicants should be credited with at least an additional 826 days for USPTO delay beyond November 05, 2005 (the end of the three-year pendency period beginning at the CPA filing date) through the projected patent issue date of February 05, 2008 (six and one half months from the time of mailing of the Notice of Allowance).

Therefore, the net PTA should be at least 301 days (based on at least 826 days for USPTO delay minus 525 days for Applicant delay). Accordingly, it is respectfully requested that the PTA of at least 301 days be issued in favor of the Applicant. This patent is subject to a terminal disclaimer; however the disclaimer, filed April 10, 2002 and acknowledged July 01, 2002, expressly excludes disclaiming any terminal part of any granted patent that would extend the expiration date of the full statutory term as defined in 35 U.S.C. § 154.

It is further requested that the fee of \$200.00 be waived in light of the above circumstances. However, if the Patent Office determines that the fee is required, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.


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(088802-8704)

In the event any matters remain to be resolved in view of this communication, the Examiner is encouraged to call the undersigned so that a prompt disposition of this application for PTA can be achieved.

Respectfully submitted,

Date: October 26, 2007



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Attachment: Exhibit A—Printout of the Patent Term Adjustment History using the Patent Application Information Retrieval (PAIR) Database

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 09/522,753

Filing or 371(c) Date:	03-10-2000	USPTO Delay (PTO) Delay (days):	0
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	525
Post-Issue Petitions (days):	+0	Total PTA (days):	0
USPTO Adjustment(days):	+0	Explanation Of Calculations	

Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
07-30-2007	Mail Notice of Allowance		
07-30-2007	Mail Examiner's Amendment		
07-11-2007	Document Verification		
07-11-2007	Notice of Allowance Data Verification Completed		
07-11-2007	Case Docketed to Examiner in GAU		
07-11-2007	Examiner's Amendment Communication		
06-01-2007	Mail Advisory Action (PTOL - 303)		
05-29-2007	Advisory Action (PTOL-303)		
05-16-2007	Date Forwarded to Examiner		
05-04-2007	Amendment after Final Rejection		
03-06-2007	Mail Final Rejection (PTOL - 326)		
03-05-2007	Final Rejection		
01-11-2007	Date Forwarded to Examiner		
12-20-2006	Response after Non-Final Action		
09-22-2006	Mail Non-Final Rejection		
09-18-2006	Non-Final Rejection		
07-07-2006	Date Forwarded to Examiner		
05-25-2006	Response to a Letter to Comply with the Sequence Rules		
05-25-2006	Request for Extension of Time - Granted		
06-05-2006	CRF Is Good Technically / Entered into Database		
05-25-2006	Request for Extension of Time - Granted		
04-11-2006	Mail Letter Requiring CRF (Unreadable, Non-Compliant, Not Submitted)		
04-03-2006	CRF Diskette Unreadable / Did Not Comply / Required but Not Submitted		
01-25-2006	Date Forwarded to Examiner		
01-17-2006	Response to Election / Restriction Filed		
12-14-2005	Mail Restriction Requirement		
12-12-2005	Requirement for Restriction / Election		
11-30-2005	IFW TSS Processing by Tech Center Complete		
09-28-2005	Date Forwarded to Examiner		
09-20-2005	Response after Non-Final Action		

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09-20-2005	Request for Extension of Time - Granted	4
09-20-2005	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	4
07-27-2005	Case Docketed to Examiner in GAU	4
05-23-2005	Mail Non-Final Rejection	4
05-16-2005	Non-Final Rejection	
05-02-2005	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received	
02-15-2005	petition fee paid	
02-15-2005	Statement Filed Indicating a Loss of Entitlement to Small Entity Status	
03-02-2005	Date Forwarded to Examiner	
02-15-2005	Response after Non-Final Action	187
02-15-2005	Request for Extension of Time - Granted	4
12-16-2004	Mail Notice of Informal or Non-Responsive Amendment	4
10-07-2004	Date Forwarded to Examiner	4
08-12-2004	Informal or Non-Responsive Amendment after Examiner Action	4
08-12-2004	Response after Non-Final Action	23
08-12-2004	Request for Extension of Time - Granted	4
08-12-2004	Workflow incoming amendment IFW	4
04-20-2004	Mail Non-Final Rejection	4
04-19-2004	Non-Final Rejection	
02-09-2004	Date Forwarded to Examiner	
01-26-2004	Response after Non-Final Action	196
01-26-2004	Request for Extension of Time - Granted	4
01-26-2004	New or Additional Drawing Filed	4
09-23-2003	Mail Notice of Informal or Non-Responsive Amendment	4
07-21-2003	Case Docketed to Examiner in GAU	4
07-17-2003	Date Forwarded to Examiner	4
07-14-2003	Informal or Non-Responsive Amendment after Examiner Action	4
07-14-2003	Response after Non-Final Action	91
07-14-2003	Request for Extension of Time - Granted	4
01-14-2003	Mail Non-Final Rejection	4
01-13-2003	Non-Final Rejection	
12-09-2002	Preliminary Amendment	
12-09-2002	New or Additional Drawing Filed	
11-07-2002	Date Forwarded to Examiner	
11-01-2002	Continuing Prosecution Application - Continuation (ACPA)	
11-07-2002	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)	
11-01-2002	Request for Extension of Time - Granted	
11-01-2002	Workflow - Request for CPA - Begin	